

779
PROPOSAL

FOR THE

ERECTING

OF

County Registers

FOR

Freehold Lands.

Shewing the great Use and Benefit of them.

By *E. B.* Esquire.

L O N D O N,

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A P P R O P O S A L

For the Erecting of
County Registers, &c.

A Motion being made in the House of Commons in the Reign of Queen Elizabeth, for leave to bring in a Bill to prohibit *Usury*, a great States-man then in the House opposed it, and concluded his Arguments for the continuance of it, with this memorable Aphorism, *Let any Man shew me a Country without Usury, and I will shew him one without Trade or Riches.* Than which none of the Mathematical Principles are more certain, or self-evident.

True it is in the mean time, that no sort of Men are, or deserved to be more odious than the *Cripping Usurer*; but then it is the abuse of the thing that makes him so. Let him take a reasonable Interest for his Money, and treat the Men he deals with fairly, and upon the Square, and no Man deserves more Love than he. But this is so hard to be expected from that sort of Men, that they are feared and suspected before they are guilty of any ill thing. The Trust they give is too often abused, and that often makes them think of taking Reprizals upon the rest of Mankind that have not injured them; and the distrust they shew is in some sort justified by the ill Actions of needy and designing Men, that appear what they are not, both for Colour and Substance, Honesty and Ability.

This is it that makes **Banks** and **Registers** for Lands so necessary, that the Lender may have a certainty to receive his own again with Profit, and the Borrower, being delivered from the suspicion of Fraud, or ill Designs, may not pay for other Mens Perfidy and Breach of Trust. As to the several Banks now erected I am not against them; they may have their Use as to some Men: But to turn all the Riches of the Nation into these Channels, must of Necessity ruin the Nobility and Gentry of this Nation; because they will possess at all times such a Mass of Treasure, that no one single Man, how great soever, can defend himself against their united Purse and Interest. And when they have ruined a few to shew their Power, they will become so terrible to the rest, that there will be no other Remedy, but to Petition them for Mercy; a Virtue not often found in single Persons, but much rarer in Bodies of Men; who dividing or sharing the infamy of an ill Action,

account

account each Man's Share of it so small, that it is not worth regarding; and the rather, because every *individuum* of the whole Mass will pretend to have had no hand in it, and to be against what the whole doth, and then the Poets Question is easily admitted; *Quid salvis infamia Nummis?* Who would not be infamous to be rich?

The Way between these Rocks on the Right and Left Hand is, the opening *County Registers*; Those of single Mannors being too small, and those of the whole, or a great part of the Nation, too big both for the Government, and them that are to deal with them. In these latter *Banks* a Man is forced to put the Title of his Estate into the Hands of unknown Men before he can be trusted; and then is trusted no farther, nor longer than they think fit; because, like a Bird, they have him in their Talons, and can crush him when they please; and if he once falls (and who may not?) into the Hands of these his Masters, he cannot deliver himself, and no Man else will dare to do it. But in a County Register, the Title as well as Possession of the Estate, remains in the proper Owner till he willingly parts with it, or is by Law, for good Causes divested of it; and he has only his own Creditors to deal with, and if they become unreasonable, he may pay them off, and betake himself to others that will treat him better.

All that can be alledged for the *Bank* is, That this is but a *formize* of what may be, but has never happened. True it is, they are now like the rising Sun, pleasant and easie to all; but if they are once got up to the Meridian height of Power, and setled, then will their scorching Heat be felt like the scorch, but much greater than the *Libyan Ardors*, which reach not far into the parched Earth, but these will penetrate to the Bowels, and fire the entrails of those Lands and Owners, which lie under their noxious Influence, till they become uninhabitable as to their present Possessors.

Yet in the present Circumstances, what should miserable Men do? The griping *Usurer* hovers over them, just ready to seize upon them; and their Dolphins are gaping under them, to catch them in the descent; and a Prey they must fall, sooner or later, to one of them, if the Mercy of our Representatives in Parliament do not deliver these persecuted Men.

The Method I propose is none of my Invention; one Mr. *Tarrington*, about twenty Years ago, first offered it to the Consideration of the Nation; and since that time it has ever been debated: Desired by all that had need of it, and opposed by the rest, upon very different Grounds and Reasons without doubt, but those alledged publicly, none of the best; and in truth it has some Inconveniencies, which I shall mention perhaps in the close of this Paper.

But there is one Reason arising from the present Circumstances of the Nation, that, I hope, is strong enough to surmount all the Difficulties that are raised or pretended to obstruct it; Men have struggled as long

as they can, and if the Nation will not take care of them, they will take the best care they can of themselves, which is the Voice of these *Voluntary Banks*; the Mischief of which I have hinted at. These going on, will in length of time do all that the County Registers would have done, but to the damage of the Nation, especially of the Gentry and landed Men. The old Methods, and Law-maxims were well enough two or three hundred years ago, when we made no other use of our small Ships but Fishing and Transporting our Forces into *France*: When the elder Son was a Captain, and all the younger Sons Soldiers under him or some other great Man. Then *Lands pay no Debts* was a prudent Provision for the Preservation of Families; but it has ruined more in the last Century than it has preserved; for if they pay no Debts they deserve no Credit; and cannot be useful in the way of Trade, the much better way of employing the younger Children than that of sending them into the Field to be returned back Beggars and Cripples for the remainder of their wretched Lives.

Trade is now become the Darling of Mankind, and if the *French Leviathan* did not make War necessary would have beat our Swords into Plow-shares, and our Spears into Pruning-hooks, the much more useful and humane Instruments, which are attended with the Blessing of God and Man; whilst the fruitless Lawrels of the proudest Victors have ever been deeply drenched in Blood and Tears, and at last blasted by the Curses of both. But then *Trade* and *Trust* are such Reciprocals, Correlatives each to other, that they must stand and fall together: Without *Trust* there can be no *Trade*, and without *Trade* there will not be much *Wealth*, the Foundation of *Trust*.

Were any thing to be imposed upon the rest of the Nation, it were no wonder if it met with opposition, but all that is desired is a bare Permission for such as please to Register their Free-hold Lands, their Quantity and Quality, and the Values and Titles of them, that all Mankind may know what Incumbrances are upon them, and how far they may with safety rely upon them by way of Mortgage or Purchase, for the Payment of the Debts now upon them, and the Support of the Publick Charges; the Provision for younger Children, and the promoting thereby the Trade and Commerce of the Nation; which seems not possible to be carried on without such an Assistance, but be sure cannot so well be done without it.

As some Families, so perhaps some Counties may not have an equal need or sence of this benefit: Let but the *South-Eastern* Counties that border near upon *London*, *Essex*, *Hertfordshire*, *Cambridgeshire*, *Suffolk*, and *Norfolk*, &c. have this Liberty, and let the rest that desire it not, be left in *statu quo*, till they see how those that desire it fare, and then do as they think fit.

Having thus, by way of Introduction, a little opened my way, I come now to the thing mainly intended, and to shew my Thoughts upon it, with the Reasons of them, that so others may the better judge of them. And first, The Reasons why I prefer County Registers before one General Register in *London* (which yet might perhaps do well enough for those Counties that border near upon *London*) is first,

1. For the dispersing the Wealth, the Vital Blood of a State, proportionably alike to all the parts of the Body Politick; that some may not be over-nourished, and others starved, but that this nutritive Juice may be every where, and near at hand to serve all Mens emergent Necessities.

2. That the *Borrower* and *Lender* may the more easily transact their Affairs and be known each to other; which is a great Foundation of that mutual Trust and Confidence that ought to be between them.

3. For the more easie knowledge of the Quantity, Quality and Value of the Lands that are to be the Funds upon which the Trust is built, these to many of the Creditors will be known before-hand; and as to the rest, with small Expence, may be viewed and enquired into; which is difficult to be done in remote and very distant Counties, which much alters the Value of Lands.

4. For the more easie Payment of Interest whilst the Trust continues, and of the Principal when it is to be paid in, to me it seems but reasonable, the Borrower and the Lender should live like Man and Wife together, that they may have an Eye upon each others Demeanour, but with the liberty of taking out a Bill of Divorce in cause of *Jealousie* on either side.

5. And to that purpose I would have it as easie for them to part as it was at first to meet; if there is in the same County a Center in which all the Money and much of the Lands may meet, where the borrower will seldom fail of what he wants, and the Lender as rarely be long without a Customer for his Money: So that a Man may pay a Debt when he please, without any injury to his Creditor: The want of which liberty has been the ruin of many a Family, and therefore ought to be taken care of.

6. Not only great, but small Sums may be lodged here, which will be a means to bring many a Family out of Debt. I have known a good Husband borrow an Hundred Pound of five several Men, and pay them all off one after another, that could never have paid an Hundred Pound at one single Payment. And this may easily be done in a County Register, but is not possible to be done in a general one.

The Register. Next the Place, the Person, or the *Register* that is to be trusted, is of principal concern; and, I think, he ought to be a Gentleman of good Education, and of an Estate of two, three, or four Hundred Pound Lands the Year within the County, that he may be above the Temptation or Suspicion of doing mean and unworthy things; and that he may have wherewith to answer it, if he shall knowingly be guilty of any Fraud or Cheat, that Men may the more willingly trust him with the Custody of their Writings, and of these precious *Records*.

Yet I think it were convenient, that he should not be a practising Lawyer, but rather an Understanding and right honest Gentleman, that scorns to trick or be trick'd, and will do right to the Poorest and the Richest without any respect of Persons: Altho' there is not many such, yet some such may be found in every County.

This

This Person may at first be chosen by the body of the Free-men of the County, having Lands and Tenements to the value of 20, 30, 40, or 50 l. the Year, it being too great a Concern to be committed to the Cottagers of a County, Men that have not Discretion to choose wisely; nor very often will they be ruled by them that have: So that as the great Concern is that of the great Free-holders, they only ought to choose the Man they will trust with their Estates: And this Register ought to be for Life, if he be not found guilty of any thing that he shall deserve to be displaced for.

But when the Register is once established, then the Election ought to be made only by those Free-holders whose Estates are registred, and not by them who have no interest in the Person or Office. For what reason is it another Man, who has neither Lands nor Writings in the Office, should intermeddle with that he is not concerned in: And if any Man should presume to give his Vote not being qualified as above, not only his Vote should go for nothing, but he deserves to be prosecuted and fined for invading the Property of his Neighbours; nor is it possible too great a care should be taken in this Affair.

The Election in all other things may be managed like that of the Knights of the Shire by the Sheriff in the County Court by Majority of such Voices, and the Election determined by the Sheriff and principal Gentry then assembled, and declared by a Pair of Indentures, one part to be filed in the high Court of *Chancery*, and the other in the County Register, which is to be the Registers Commission. And if it be required, a Poll and Scrutiny admitted, than no doubt may be of the Majority of Voices.

Being thus elected, a very strict Oath may be given him by the Clerk of the Peace, in the Presence of the Sheriff and Gentry there present, for the true, impartial and faithful Administration of the said Office towards all concerned alike.

Being thus constituted, he may have the Authority of a Judge of Record; and nothing that is entred or signed by him to be disputed as to the Fact in Law or Equity; and, I think, he might be allowed to take Recognizances for security of Money, with the Assistance, and in the Presence of two or three Persons of good Worth and Quality; and to take Accounts, and do all other Acts commonly done by the Masters in *Chancery*; one of which in extraordinary, it were convenient he should ever be reputed to be in the said County, by Virtue of the Act that appoints the Office.

The Methods of the keeping and the entering the Lands and Tenements in this Register, may be the same that is now used in *Fishes* and *Recoveries*; that is, with the same Brevity and Perspicuity, reciting the Quantity, Quality, Value of the Lands, and in whose Occupation they then are, and in what Towns they lie. And this may be done in a few Words; and in the Close, what Title the Claimant hath, and what Incumbrances there are upon it. And if no more be proved within six Months after the said Entry, then that to be the Title and State of the Lands so entered, and for

for the future no charge to be brought upon them but what shall be there entred, and in the order they are there entred, and no other.

All the Principal Evidences also, or Deeds relating to the Lands so entred, may at first, at least, be left in the Custody of the Register till the Title is by the Act fixed, or Transcripts of them to be declared by Law, of equal Authority with the Originals; and ever after, one Deed signed and sealed by all the Parties, that recourse may be had to it as often as there is occasion; which will also be a means of preserving Deeds, in case of Fires or other such Accidents.

In case of non-payment, the Register, after summoning the Party concerned, to deliver the Possession to the Creditors, without any other Suit in Law or Equity: Which would much encrease the Value of Lands so entred, when the Creditor is sure to recover his own again, with small Charge, and no Hazard.

The Register also to have power to receive both the Use and Principal in case of any difference between the Lender and the Borrower, after the Methods of the *King's Bench*, having first summoned the Lender to shew cause why the Money should not be paid in and the Security discharged: And the Money being so paid in, to lie in the Office till the Lender will take it out, or dispose of it otherwise; the Borrower in the mean time being as fully discharged both in Law and Equity, as if the Lender had received the Money and acquitted him.

The Register being thus to be trusted, ought to be accountable for all his Servants and under Officers, but not for Fire, Thieves or War, if he has taken the best care he can to secure what is deposited in his Hands.

Or if it be thought too much to trust the Register both with the Money and the Records of this Register, then there may be a Treasurer appointed for the Money, and the other be only the Keeper of the Records. But then the uniting them in one Person comes the nearest to the nature of a Bank, and no Man that distrusts him will be under any necessity of putting or leaving his Money in his Hands: So that the Trust, if any be, will be purely voluntary.

There is nothing to be entred after the first Entry but the Mortgages; Sales or Assignments made upon any Estate, which ought always to have reference to the first Entry, till the right of the whole or any part is assigned, and passed over to another, and then to begin *de novo*, as with a new Proprietor.

No Mortgage, Jointure, Judgment, or Recognizance to be taken or admitted in other Order, but that of the time when they are entred into the Register; and to take place only upon the Remainder after all the Prior Creditors are paid both Use and Principal.

When any Entry is to be made of Lands or Tenements, the same shall be drawn up by the Council of the Possessor in Paper; and then be transcribed fairly into the Register's Book, which shall be of Vellum, or very good Parchment,

ment, fairly and strongly bound for continuance: And the Party that makes the Entry shall have a Copy of it in Vellum signed by the Register, without any Rasure or Interlineation. And if afterwards any such thing appear in any Copy, it shall be taken for false, if it differ from the Entry in the Book.

This Book ought to be in *English*, and written in a fair Hand that is known to all Men, that every Man that can write and read may understand his own Copy.

The Entry of any Money lent, to be in some such short Form as this:

Memorandum. *The* *day of* *in the year of our Lord*
J. S. of *in the County of* *Lent to D. G. the*
Proprietor of *the Sum of one hundred Pounds, to be paid with*
Interest at *per cent. the* *day of*

This Form to be used when the Money is paid in the presence of the Register; but if otherwise, then the Form to be,

Such an one acknowledged to have received of

To prevent any possibility of Fraud, a Copy of the Entry shall be given both to the Borrower and the Lender, exactly compared and examined by the Book, and interchangeably signed by both Parties, and also by the Register and his Clerk; the same to be indented.

The Register to have 5 s. for every Entry made in the said Book, under, or of an hundred Pounds the Year, and one hundred Pounds in Money; 10 s. for two hundred Pounds, and so onward; the greatest Sum to be 50 s. and no more to be paid for any Entry whatsoever.

To have 10 s. for every Transcript to be taken out, besides the Charge of the Copy, for searching and permitting the same to be transcribed. But if there be only a Search, and no Transcript, then 5 s. only to be paid.

That Liberty may be given to any Mortgagee or Lender to enter his Right to any Free-hold Estate upon any Mortgage entered before the passing of the Act, though the Owner of the Land has not, or will not, enter or register his Lands: And all Mortgages that are thus entred in the first six Months after the Office is opened, to pass according to their Dates, but to be preferred before any Mortgage, of what date soever it is, that is not entred within the six Months, except the Mortgage prove, that at that time he was beyond the Seas.

To prevent Surprizes, it may be fit that all the Free-hold Lands, entred into the Register, be fixed upon the Market-Cross of the next Market-Town to the Lands aforesaid, and also in the Parish Church; and that Lists of all Persons that shall so register their Lands, be every Term hang

in *Windsor-Hall*, so that all the World that can be any way concern'd in those Lands may have knowledge of it.

That it may be declared Felony, without benefit of Clergy, for any Man to register as his own another Man's Lands; and that no Man be admitted to register till he has by Deeds, exhibited, proved his Title, and those Deeds to be left for six Months in the Register.

No Debtor or other Incumbrance to be entred upon any Lands in the Register but in the presence of the Owner, or of an Attorney at Law, authorized so to do by the Warrant of the Owner, under his Hand and Seal, attested by three Witnesses, and signed and certified to be true, by the next Justice of the Peace, to the Proprietor or Owner of the Land, and all this made good by the Affidavit of the Attorney sworn before the Register, and filed in the said Office. And the Attorney that shall make any false Entry to suffer as in Case of Felony.

Amongst the many Objections made against these publick Registers, one is, that it will expose the Condition of every Man's Estate to all the World. This will in great part be prevented by the Prudence of the Register, whose Interest it will be to have the Love of all those that are in the Register, that it may grow, and with it his Profit. And yet he may by Law be bound not to expose the Condition of any Man's Estate, but by his own consent, and to such only as are to purchase or lend Money upon the same, and such part only as they are to be concerned with.

The Register ought also to have a competent Allowance for all Searches Certificates, and Letters by him written or made, for the satisfaction of any Person that is to purchase or lend any Money upon any Estate that is entred in the said Register.

Besides the Fees that will be fit to be allowed to the Register, it will be but reasonable, that some small Fees should be allowed to Clerks employed to draw up Copies, Bonds, Recognizances, Affidavits, and other such-like Writings, which will be of frequent use; and these Fees may be regulated by the Justices of the Peace in their Quarter Sessions, and Tables signed by them and the Register be hung up in the Office, that every Man may be certain what he is to pay. And also all rules of Practice, Bye-Laws and Orders, ought to be hung up, and the same Method be used by and towards all that are to transact any thing in the said Office.

The best place to fix this Office in, is the County-Town, or some other great place to which the Attorneys resort once in every Month for the holding the Sheriff's Court; and by consequence this Affair may be then dispatched without making a Journey to no other purpose.

The larger the Bounds of the Office is, the less will the Fees of the Register be; whereas, if his Bounds are small, he must have the greater Fees to make up a Sum worth his while: And it is the cheapness and facility of procuring Money, that is the Benefit designed to the Borrower, as Certainty and Security is to the Lender. If we can gain these two Points, the prin-

principal Benefit of Lands is gained, which is to make the Funds for carrying on the Trade of the Nation to the publick and private Benefit.

That in case of any Misdemeanour a Complaint, Bill or Information may be filed against the *Register* in the publick Assizes for the County by the major part of the Grand-Jury for the said County; at which the *Register* shall ever be obliged to be present, and to which he shall immediately plead; and the next following Assizes the thing shall be heard and tried by the next Grand-Jury: The *Judge* and the *Bench*, who shall have a full and final Power agreeing altogether (for each of them is supposed to have a negative Voice) to discharge the said *Register* from his Employment, or to fine him as they thin fit, without any Appeal to any other Court whatsoever. And no Complaint shall be received against the *Register* as concerning his Office, but in the Assizes of the same County. It may be presumed ill Men will bear ill will against a Person that is supposed to have Power to force them to be honest, contrary to their Inclination. And when the Office is once settled, and appeareth to have any Profit in it, then Envy, Covetousness, and all the other ill Humours of Men will work powerfully against him to get him out that some factious and popular Man may get into the place; against all which the utmost care is to be taken to secure an honest Man without encouraging a Knave (if such an one should happen to get in) to hope for impunity.

The same Free-holders may, if they think fit, choose a Treasurer besides the *Register*, to take care of all Moneys lodged for the said Office, or paid into it; and then the *Register* will only be charged with the keeping the Records of the said Office. In this Office all Deeds and Wills relating to Free-hold Estates especially, might also be recorded for the preservation of them.

All that is desired is but this, that all that will may have liberty to register their Free-hold Lands and Tenements, to ascertain the Titles and Incumbrances that are upon them; and not that any Man that needs it, nor should be compelled so to do. And that any Man that has charged his Lands, may withdraw the same again as soon as he has discharged all the Debts that were due upon it; there being nothing designed but the security of Purchasers and Lenders.

This would have these good Effects:

1. It would make the Titles of Free-hold Estates as certain as that of the Copy-holds; of which there is no certainty now by reason of latent Deeds.

2. It would prevent Frauds in Buying and Selling, Borrowing and Lending. The Borrower could not impose upon the Lender, because his Estate would appear in the Register as it was: Nor could the Lender im-

pose any hard Terms upon the Borrower, because he would be able, in a short time, to pay him off, and transfer the Debt to another Man.

3. This would certainly lower the Interest of Money ; encrease Trade and Husbandry.

And if Liberty were given to transfer the Copies, the Money lent might be assigned from one Man to another, as the Bank Bills are: So that in time it would be a kind of County-Bank ; and Money there lodged would be better secured than in any private Man's House wheresoever.

4. The smallest Summ, even to five Pound, might have Land Security, and the poorest Borrower, or Lender, an easie, cheap, and speedy Justice.

There can nothing be so wisely contrived but it will be attended with some Inconveniences ; and I will most readily grant this has many and great Inconveniences which will follow upon the settling of it, the Prospect of which hath hitherto prevented the obtaining this desired Liberty.

1. This will prevent great numbers of Law-Suits, for which there will then be no occasion, frequent Fines, Procuracy and Continuation Money ; which will bring great loss to the Lawyers and Money-Scriveners, and to some of the most thriving Usurers.

2. It will discover those Men that have mortgaged their Lands two, three, or more times over, and perhaps for more than they are worth.

3. It will reduce the greater Usurers to moderation and fair dealings.

I do therefore expect all these Men will oppose it to the utmost, as it is their Interest to do : For though they cannot take away the Integrity of an honest Man, yet great care is to be taken it may not be known which are such. For when *Knaves* are once detected they are undone ; and by them the Lawyer, Money-Scrivener, &c. get all their Wealth.

FINIS.



